

# CITY of ALBUQUERQUE

## SEVENTEENTH COUNCIL

COUNCIL BILL NO. \_\_\_\_\_ ENACTMENT NO. \_\_\_\_\_

SPONSORED BY:

### 1 ORDINANCE

2 AMENDING SECTION 14-16-3-17 ROA 1994, A PORTION OF THE ZONING,  
3 PLANNING AND BUILDING CODE, REGARDING CONCEALMENT OF  
4 WIRELESS TELECOMMUNICATIONS FACILITIES.

5 BE IT ORDAINED BY THE COUNCIL, THE GOVERNING BODY OF THE CITY OF  
6 ALBUQUEQUE:

7 Section 1. Section 14-16-3-17 (A) is amended as follows:

8 “(A) Basic Requirements. The following regulations shall apply to all wireless  
9 telecommunications facilities in all zones, unless otherwise stated.

10 [+ (1) Concealment:

11 All wireless telecommunications facilities shall be concealed to ensure  
12 subordination and compatibility with surrounding objects and colors.

13 Facilities permitted prior to the adoption of this amendment shall comply with  
14 this provision within five years of its effective date.+]

15 ~~[- (-1-) -]~~ [+ 2+] Setbacks:

16 (a) A free-standing wireless telecommunications facility  
17 shall be set back a minimum of 85 feet from the property line of a residentially  
18 zoned property.

19 (b) New free-standing wireless telecommunication facilities  
20 in public utility substations shall be exempt from the setback requirement if  
21 the wireless telecommunications tower is no taller than the existing utility  
22 structure within 20 feet of said substation.

23 (c) A free-standing wireless telecommunications facility  
24 shall be set back a minimum of 50 feet from the existing right of way.

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1 (d) Except as stated in (a), (b) and (c) above, setbacks shall  
2 conform with the setback requirements of the zone in which the wireless  
3 telecommunications facility is located.

4 [- (2) -][+ 3 +] Lighting and Signage:

5 (a) Only security lighting or lighting required by a state  
6 and/or federal agency is allowed, provided:

7 1. The location of the lighting fixture together with  
8 its cut-off angle shall be such that it does not shine directly on any public  
9 right-of-way or any residential premises.

10 2. The lighting shall not have an off-site luminance  
11 greater than 1,000 footlamberts; it shall not have an off-site luminance greater  
12 than 200 footlamberts measured from any private property in a residential  
13 zone.

14 (b) The only signage that is permitted is that which is  
15 required by state or federal law.

16 [- (3) -][+ 4 +] Telecommunications Equipment Building or Cabinet  
17 shall:

18 (a) Not contain more than four-hundred square feet of  
19 gross floor area per user and shall not be more than twelve feet in height.

20 (b) Maintain the minimum setback and screening  
21 requirements of the zone in which it is located or as otherwise defined in this  
22 section.

23 [- (4) -][+ 5 +] Abandonment: All wireless telecommunications  
24 facilities which are not in use for six consecutive months shall be removed by  
25 the wireless telecommunications facility owner. This removal shall take place  
26 within three months of the end of such six month period. Upon removal, the  
27 site shall be revegetated to blend with the existing surrounding vegetation.

28 [- (5) -][+ 6 +] Collocation: No new free-standing wireless  
29 telecommunications facility shall be permitted unless the Planning Director or  
30 his/her designee determines, upon the applicant's demonstration, that no  
31 existing tower, structure or public utility structure can be used in lieu of new  
32 construction to accommodate the applicant's proposed telecommunications  
33 facility. Evidence submitted to the city which demonstrates that no existing

1 tower, structure, or public utility structure within a 1/4 mile radius of the  
2 proposed facility can reasonably accommodate the applicant's proposed  
3 telecommunications facility shall consist of the following:

4 (a) That no existing tower, structure, or public utility  
5 structure is located within the 1/4 mile radius which meets the applicant's  
6 engineering requirements.

7 (b) That no existing tower, structure, or public utility  
8 structure is located within the 1/4 mile radius which has sufficient structural  
9 strength or space available to support the applicant's proposed  
10 telecommunications facility and related equipment.

11 (c) That the applicant's proposed telecommunications  
12 facility would cause unavoidable electromagnetic interference with the  
13 antenna(s) on the existing towers, structures or public utility structures, or the  
14 antenna(s) on the existing towers, structures or public utility structures would  
15 cause interference with the applicant's proposed telecommunications facility;

16 (d) That there are other limiting factors that render existing  
17 towers, structures, or public utility structures within the 1/4 mile radius  
18 unsuitable: and

19 (e) That the owners of existing towers, structures, or public  
20 utility structures within the 1/4 mile radius will not allow the applicant to place  
21 its telecommunications facility thereon, or such owners are requiring  
22 payments thereof that substantially exceed commercially reasonable rates.

23 (6) Interference: Every wireless telecommunications facility shall  
24 meet the regulations of the Federal Communications Commission, or any  
25 successor thereof, regarding physical and electromagnetic interference.

26 [- (7) -][+ 8 +] Health Issues: Every wireless  
27 telecommunications facility shall meet health and safety standards for  
28 electromagnetic field emissions as established by the Federal  
29 Communications Commission or any successor thereof, and any other federal  
30 or state agency.

31 [- (8) -][+ 9 +]View corridors: Only a concealed wireless  
32 telecommunications facility or a wireless telecommunications facility, the  
33 antennas of which all are located on existing vertical structures, is allowed

1 within 1/8 mile from the outer edge of the right-of-way of any flood control  
2 arroyo designated by the City or the Albuquerque Metropolitan Arroyo Flood  
3 Control Authority and identified as part of an existing or future trail system by  
4 the city, or the following streets: Alameda Boulevard, Griegos Road, Coors  
5 Boulevard, Central Avenue, Unser Boulevard, Sunport Boulevard, Paseo del  
6 Norte, Rio Grande Boulevard, Tramway Boulevard, Interstate 25 and Interstate  
7 40. All other wireless telecommunications facilities are prohibited within 1/8  
8 mile of the outer edges of the right-of-way. Only a concealed wireless  
9 telecommunications facility is allowed within 1/4 mile from the property line of  
10 any City-owned Major Public Open Space.

11 [- (9) -][+10 +] Historic Overlay Zones:

12 (a) Only a concealed wireless telecommunications facility is  
13 allowed within neighborhoods which are included in an Historic Overlay Zone,  
14 including, but not limited to: 8th & Forester, Huning Highlands, 4th Ward, and  
15 Old Town (except within H-1 zone, in which all wireless telecommunications  
16 facilities are prohibited).

17 (b) Only a concealed wireless telecommunications facility is  
18 allowed within neighborhoods listed on the State Register of Cultural  
19 Properties or the Federal Register of Historic Places, as defined by their  
20 Neighborhood Association Boundaries, pursuant to the requirements of  
21 Ordinance 14-1987, including, but not limited to: College View, Silver Hill, and  
22 Spruce Park.

23 [- (10) -][+ 11 +] Application Requirements: In addition to  
24 information already required by the Comprehensive City Zoning Code, each  
25 applicant for a wireless telecommunications facility shall provide the Planning  
26 Department with:

27 (a) The first application for a permit by a wireless  
28 telecommunications provider after January 1, 1999 shall include an inventory  
29 of all of the said provider's existing wireless telecommunications facilities or  
30 approved sites for facilities that are either within the city or within one  
31 thousand feet of the border thereof.

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1 (b) The zone map(s) specific to the application, from the  
2 City's Zone Atlas, drawn to scale, showing land uses and zoning designations,  
3 including those outside the city limits.

4 (c) Collocation evidence as described in § 14-16-3-17(A)(5).

5 (d) A set of site development plans which, in addition to  
6 other requirements in this Zoning Code:

7 1. Includes a scaled site development plan clearly  
8 indicating the location, type, color and height of any proposed wireless  
9 telecommunications facility, on-site land uses and zoning, adjacent land uses  
10 and zoning (including when adjacent to other jurisdictions), Comprehensive  
11 Plan classification of the site, adjacent roadways, proposed means of access,  
12 setbacks from property lines, elevation drawings of any wireless  
13 telecommunications facility, topography, parking and other information  
14 deemed necessary by the Planning Department to assess compliance with this  
15 section;

16 2. Describes the facility's capacity, including a  
17 notarized statement from the applicant which declares the number and type(s)  
18 of antenna(s) that it can accommodate, or an explanation why the facility  
19 cannot be designed to accommodate other users;

20 3. Includes an engineer's stamp and registration  
21 number;

22 4. Includes the separation distance between any  
23 tower and other telecommunications facilities and the owner of those  
24 facilities; and

25 5. Includes any other information as requested by  
26 the Planning Department needed to evaluate the request;

27 (e) A letter of intent committing the wireless  
28 telecommunication facility owner and his/her/its successors to allowing  
29 shared use of the facility if an additional user agrees in writing to meet  
30 reasonable terms and conditions of shared use.

31 (f) Evidence that recognized neighborhood associations,  
32 as defined in the Neighborhood Recognition Ordinance, have been notified in  
33 writing, except that the distance from the wireless telecommunications facility

1 of neighborhood associations entitled to notice shall be increased to a 1/4  
2 mile radius from the wireless telecommunications facility.

3 ~~[- (44) -]~~~~+~~12 ~~+~~ Wireless Telecommunications Facility Mounted  
4 on Public Utility Structures Including Transmission and Sub-Transmission  
5 Line Structures:

6 (a) A wireless telecommunications facility, the antennas of  
7 which all are mounted on a public utility structure, including a transmission or  
8 sub-transmission line structure is permitted in all zoning districts except the  
9 H-1 Historic Old Town Zone, unless otherwise specified in this Zoning Code.

10 (b) Antennas shall not protrude more than 2 feet  
11 horizontally from the public utility structure including a transmission or sub-  
12 transmission line structure.

13 (c) When mounted on a transmission or sub-transmission  
14 line structure, the equipment cabinet(s) shall be not more than 3 feet x 4 feet x  
15 18 inches deep, at a minimum height of 12 feet, and a maximum height of 16  
16 feet.

17 (d) The installer shall provide documentation to the Zoning  
18 Enforcement Officer establishing that the installer has permission from the  
19 structure owner to install the antenna(s) on the public utility structure  
20 (including the transmission and sub-transmission structure.)

21 (e) The Planning Director shall review and approve the  
22 installation of the antenna(s). The Director's decision shall be subject to  
23 appeal pursuant to the appeal provisions of the Zoning Code.

24 ~~[- (42) -]~~~~+~~13 ~~+~~ Concealed Wireless Telecommunications Facility:

25 (a) A concealed wireless telecommunications facility shall:  
26 1. Be architecturally integrated with existing  
27 buildings, structures, and landscaping, including height, color, style, massing,  
28 placement, design, and shape.

29 2. Be located to avoid a dominant silhouette of a  
30 wireless telecommunications facility on escarpments and mesas, and to  
31 preserve view corridors.

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3. Be located on existing vertical infrastructure, such as utility poles and public utility structures, including transmission and sub-transmission line structures, if possible.

4. Be located in areas where the existing topography, vegetation, buildings, or other structures provide the greatest amount of screening.

5. Be located to minimize adverse effects they may have on residential property values.

6. Not be a readily visible wireless telecommunications facility.

7. Not be subject to the landscaping and screening requirements of § 14-1-6-17(A) (14).

(b) Applicant shall provide mailed notice of a proposed concealed wireless telecommunications facility to the adjacent property owner and to neighborhood associations that would be entitled to notice of a zone map amendment on the property on which the concealed wireless telecommunications facility is proposed to be located, and shall present written documentation verifying such mailed notice to the Planning Director or his/her designee. The Planning Director or his/her designee shall decide whether the facility is "concealed." The Planning Director's decision shall be subject to review pursuant to the appeal provisions of the Zoning Code.

~~[- (13) -]~~~~[+ 14 +]~~ Community Identity Feature: A wireless telecommunications facility which acts as a Community Identity Feature shall be evaluated by the Planning Commission based on the criteria established in the Community Identity Feature Criteria which shall be approved by the City Council. Until the time the Criteria are approved by the City Council, no application for a Community Identity Feature shall be approved.

~~[- (14) -]~~~~[+ 15 +]~~ Landscaping and Screening: The following regulations shall apply to landscaping and screening:

(a) A free-standing wireless telecommunications facility shall include landscaping planted and maintained according to a Landscaping Plan approved by the Planning Director or his/her designee; however, the Planning Commission may waive this requirement where the Planning

1 Commission finds this requirement is not useful to achieving the intent of this  
2 Zoning Code.

3 (b) A free-standing wireless telecommunications facility  
4 shall be surrounded by a six foot high fence or wall, which shall be solid if  
5 facing or abutting a residentially zoned lot. Chain link with slats shall not  
6 constitute a solid fence.

7 [- (15) -][+ 16 +] Horizontal Separation of Free-Standing Wireless  
8 Telecommunications Facilities: Free-standing wireless telecommunications  
9 facilities shall be separated by at least 1,000 feet, as measured from the wall or  
10 fence of each free-standing wireless telecommunications facility.”

11 Section 2. Section 14-16-3-17 (B) is amended as follows:

12 “(B) Exclusions. Every wireless telecommunications facility located  
13 within the city limits, whether upon private or public lands, shall be subject to  
14 this section. The following facilities shall be exempted from the provisions of  
15 this section.

16 (1) Amateur Radio Station Operator/Receive Only Antenna if  
17 owned and operated by a federally licensed amateur radio station operator or  
18 used exclusively for a receive-only antenna;

19 ~~[-(2) Any existing tower and antenna provided a building permit~~  
20 ~~was issued for the tower or antenna prior to adoption of this section;-]~~

21 ~~[-(3)-][+2+]~~ Emergency Services. Wireless telecommunications  
22 facilities used exclusively for emergency services including police, fire, and  
23 operation of the city water utility; and

24 ~~[-(4)-][+3+]~~ Any antenna used for AM, FM or TV broadcasting.”

25 Section 3. SEVERABILITY CLAUSE. If any section, paragraph, sentence,  
26 clause, word or phrase of this ordinance is for any reason held to be invalid or  
27 unenforceable by any court of competent jurisdiction, such decision shall not  
28 affect the validity of the remaining provisions of this ordinance. The Council  
29 hereby declares that it would have passed this ordinance and each section,  
30 paragraph, sentence, clause, word or phrase thereof irrespective of any  
31 provision being declared unconstitutional or otherwise invalid.

32 Section 4. COMPILATION. This ordinance shall be incorporated in and  
33 made part of the Revised Ordinances of Albuquerque, New Mexico, 1994.



Section 5. EFFECTIVE DATE. This ordinance shall take effect five days after publication by title and general summary.

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